

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of

DETERMINATION OF RATES AND TERMS
FOR PREEXISTING SUBSCRIPTION AND
SATELLITE DIGITAL AUDIO RADIO
SERVICES

Docket No. 2011-1
CRB PSS/Satellite II



**SIRIUS XM'S MOTION TO TREAT AS RESTRICTED CERTAIN
PORTIONS OF ITS WRITTEN REBUTTAL STATEMENT**

Sirius XM Radio Inc. ("Sirius XM" or "the Company") respectfully moves the Copyright Royalty Judges to treat certain portions of its Written Rebuttal Statement as Restricted Protected Materials under the November 16, 2011 Protective Order in this proceeding. As described on the Redaction Log provided with the Written Rebuttal Statement and the accompanying Declaration and Certification of Todd D. Larson ("Larson Declaration"),¹ these materials contain competitively-sensitive, non-public information the disclosure of which would competitively disadvantage Sirius XM and provide a competitive advantage to Sirius XM's competitors.

"Restricted Information" is defined in Paragraph 2 of the Protective Order as "commercial or financial information that the Producing Party has reasonably determined in good faith that, if disclosed, would either competitively disadvantage the Producing Party or provide a competitive advantage to another party." For reasons detailed in the Larson Declaration, the information that Sirius XM seeks to restrict clearly qualifies as "Restricted Information" under this definition. For example, information related to confidential contracts or

¹ The Redaction Log and Larson Declaration are included at Volume 1, Tab 4 of Sirius XM's Written Rebuttal Statement.

relationships or negotiations with actual or potential third-party content providers could be used by Sirius XM's terrestrial radio and Internet-based competitors, or by other content providers, to formulate rival bids, bid up Sirius XM payments, or otherwise unfairly jeopardize Sirius XM's commercial and competitive interests. Similarly, Sirius XM holds as proprietary and confidential certain information, included in its rebuttal case, regarding the percentage of plays on its satellite radio service represented by specific record labels.

With respect to internal financial measures and projections, Sirius XM has not disclosed to the public or the investment community the financial information that it seeks to restrict here. As a result, neither the Company's competitors nor the investing public has been privy to that information, which the Company has viewed as highly confidential and sensitive, and has guarded closely. In addition, when Sirius XM does disclose information about the Company's finances to the market as required by law, the Company provides accompanying analysis and commentary that contextualizes disclosures by its officers. The information that Sirius XM seeks to restrict under the Protective Order, while truthful and accurate to the best of each witness's knowledge, was not intended for public release or prepared with that audience in mind, and therefore was not accompanied the type of detailed explanation and context that usually accompanies such disclosures by a company officer. Moreover, the statements and exhibits containing the information have not been approved by Sirius XM's Board of Directors, as such sensitive disclosures often are, or accompanied by the typical disclaimers that usually accompany such disclosures. Sirius XM could experience negative market repercussions, competitive disadvantage, and even possible legal exposure were this confidential financial information released publicly without proper context or explanation.²

² Additionally, certain of the protected material in Sirius XM's rebuttal statement was so designated by SoundExchange, and Sirius XM is therefore bound to treat it as such under the Protective Order.

CONCLUSION

For the foregoing reasons, Sirius XM respectfully requests that the Judges grant its Motion To Treat as Restricted Certain Portions of Written Rebuttal Statement.

Dated: July 2, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

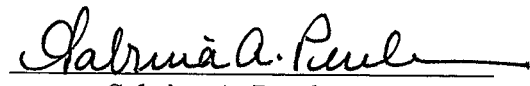
I hereby certify that the foregoing Sirius XM's Motion To Treat As Restricted Certain Portions Of Its Written Direct Statement was served on July 2, 2012 via email and overnight mail on the following parties:

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